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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re C.R. et al., Persons Coming Under
the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

SHAUNA R.,

Defendant and Appellant.

D074387

(Super. Ct. No. J512459BCDEGH)

APPEAL from findings and orders of the Superior Court of San Diego County,
Ana L. Espana, Judge. Affirmed.

William D. Caldwell, under appointment by the Court of Appeal, for Defendant
and Appellant.

Thomas E. Montgomery, County Counsel, John E. Philips, Chief Deputy County
Counsel, and Jesica N. Fellman, Deputy County Counsel, for Plaintiff and Respondent.

Shauna R. appeals from orders terminating parental rights to six of her children. She contends that the juvenile court prejudicially erred in denying her statutory right as a state prisoner to be present at the permanency plan selection and implementation hearing for her children. (Welf. & Inst. Code, § 366.26.)¹ Shauna R. also contends that the juvenile court abused its discretion in denying her request for a continuance of that hearing under section 352.

We conclude that the juvenile court erred in relying on Shauna R.'s written waiver of physical presence in view of her contemporaneous written request to be present at the hearing. However, we further conclude that the error was harmless. Shauna R. was telephonically present at the hearing and was represented by counsel. Shauna R. could have testified, presented witnesses, or cross-examined the social worker, but did not. Further, the record leaves no doubt that the children's continued contact with Shauna R. would be detrimental to their emotional and physical well-being and that no exceptions to termination of parental rights applied. Although the court should have continued the hearing for the short time necessary to secure Shauna R.'s physical presence for the hearing, the court did not abuse its discretion in denying her request for a five-week continuance. We affirm.

¹ Further unspecified statutory references are to the Welfare and Institutions Code.

FACTUAL AND PROCEDURAL BACKGROUND

Shauna R. has eight children and an extensive child welfare history.² She lost custody of one child, who is now an adult, through dependency proceedings. Her children, C.R., J.R., Ha.R., Joseph R., and Cody R., were juvenile court dependents from August 2013 to September 2015 due to general neglect and inadequate supervision, and bruising indicative of child abuse on C.R. The parents were convicted on felony criminal charges relating to that case. They participated in services and the children were returned to their care. The parents had two more children, Je.R. and H.R., in 2015 and 2016, respectively.

In December 2016, the San Diego County Health and Human Services Agency (Agency) detained three-year-old Cody in protective custody after he was hospitalized for failure to thrive, caused by his parents' intentional failure to feed him. Cody nearly died from starvation. (See *In re Cody R.* (2018) 30 Cal.App.5th 381, 385.) The other children did not show signs of neglect and remained in their parents' care under a voluntary services plan.

In March 2017, the parents were arrested on felony child cruelty charges in Cody's case and were held without bail.³ The Agency detained the other children, ranging in age from five months to 10 years, in protective custody. The infant, H.R., was sick and had

² The children's father does not appeal.

³ In November 2017, the parents pled guilty to felony child abuse and were sentenced to four years in prison. They would have to serve at least two years of the sentence.

an untreated eye infection. Two-year-old Je.R. had a significant untreated eye infection and an untreated ear infection. Five-year-old Joseph was healthy but dirty. Doctors were concerned about the number of old and new bruises on Joseph's body and initiated a child abuse referral. Six-year-old Ha.R. had a 104-degree fever and was treated at Rady Children's Hospital. She also had an untreated eye infection. J.R. and C.R., ages seven and 10, had viral illnesses. J.R.'s clothing was noticeably soiled.

The Agency placed the children in three separate confidential foster homes: H.R. was placed in the same home with her brother Cody; Joseph and Je.R. were placed together in another home; and C.R., J.R., and Ha.R. were placed together in a third home. The children saw each other regularly.

When C.R., J.R., and Ha.R. (the three older children) were initially placed in foster care, they hit and fought with each other and would not follow directions. Ha.R. would pull out her hair when she was upset. After they began to feel more secure with their caregivers, the older children gradually began to disclose a pattern of abuse by their parents. The therapist said that they were terrified of their mother and did not want to return home. Ha.R. was "too scared to talk about it." In October, C.R.'s therapist said that C.R. was disclosing significant traumatic events in his parents' home and was struggling with processing trauma. In December, a physician diagnosed Ha.R. as a victim of severe emotional abuse and recommended psychotropic medication to address her mood dysregulation, impulsivity, hypervigilance, distractibility, defiance, tantrums, and physical aggression.

When first placed in foster care, five-year-old Joseph would run away, yell, fight, and have tantrums. He was also aggressive with others. His foster parents were extremely loving and attentive to Joseph and his younger brother, Je.R. Joseph's behaviors were substantially improved by November 2017. He was on the waiting list for trauma therapy. There were concerns about Je.R.'s fine motor skills, problem solving, and aggressive behaviors.

H.R. was an adorable baby girl who was meeting developmental milestones. She sought out her foster parents for comfort and affection.

Shauna R. telephoned the three older children twice a week and had a monthly Skype visit with all of the children. The telephone calls made C.R. anxious. During every telephone call or Skype session, he would tell Shauna R. that he did not want to talk to her and would leave. On October 29, during the Skype visit, all of the children except H.R., who was not yet verbal, told Shauna R. that they did not wish to speak with her. H.R. was left in her stroller for 20 minutes in front of the Skype camera. The visit ended when she started crying. The older children's caregiver said that she had terminated several telephone calls when Shauna R. made inappropriate statements to the children. J.R. and Ha.R. (together, the girls) asked to stop the telephone calls with their mother. Shauna R. had told them that they would be together again, which upset the girls. Joseph's caregiver reported that Joseph appeared confused and stressed before, during, and after contact with his mother. He often refused to speak to her. Je.R. did not appear to be either beneficially or detrimentally affected by contact with Shauna R.

The district attorney's office conducted forensic interviews with the three oldest children. C.R. said that his father hit him with a belt and his mother hit him with objects. His mother made him catch the other children so that she could hit them. He was afraid that she would hit him if he did not do as she said. C.R. said that his mother did not feed Cody. Cody had many bruises from being hit. He was not allowed to leave his room. Once, Cody was so thirsty that C.R. saw him drinking water out of the toilet. C.R. took Cody to the kitchen and gave him water and food. The children left crumbs on the floor so that Cody would have something to eat. Ha.R. was not allowed to eat very much. The parents locked the kitchen cabinets at night to prevent the children from eating. C.R. said that he wanted to be adopted by his foster parents.

J.R. described being hit with a belt. Her mother told her and C.R. to hit the other children. If J.R. did not "smack" Je.R., her mother would put them up against a wall and they would have to keep their hands up. If they became tired and put their hands down, their mother would make them put their hands back up or spank them.

Ha.R. talked about how all of the children were hit with the belt. She said that her mother would tell C.R. to punch Joseph and J.R. in the nose. Ha.R. wanted to be adopted by her foster family.

In December 2017, the juvenile court terminated parental rights to Cody, noting that his relationship with his parents was "one of terror, trauma, and fear." On the same date, the juvenile court found that the children had been traumatized by the parents' abuse of Cody and by their forced participation in that abuse. The court terminated reunification services and set a section 366.26 hearing on May 24, 2018.

In reports prepared in April 2018 for the section 366.26 hearing, the social worker reported that all of the children were healthy. C.R. was in the fifth grade and doing well academically. J.R. was a third grader who was receiving services for her speech delays and extra academic support. First grader Ha.R. was receiving services to address her behavioral difficulties at school. She was on medication, under the care of a psychiatrist. Joseph was in kindergarten. He had an individualized education plan to address academic delays. Je.R. attended daycare two days a week, with no concerns about his behavior or development. H.R. was in daycare. Her teachers were working with her to improve her communication skills.

C.R., J.R., and Ha.R. were doing well overall. They were in therapy. Their therapist said that C.R. did not want to have any further contact with either parent. After talking with his parents, C.R. had nightmares, flashbacks of past abuse, and nightmares about being physically abused. He would become physically ill before and after telephone calls with his parents. C.R. understood that his parents would each have to spend at least two years in prison, but did not believe that their sentences were long enough.

C.R., J.R., and Ha.R. told the social worker that they were happy in their foster home. Their caregivers said that they could not picture their lives without the children and were fully committed to adopting them. C.R. wrote a letter to the judge in which he stated that he wanted to be adopted by his caregivers. The girls said that they were afraid of their parents and did not want to have any further contact with them. In February 2018, the children overheard a conversation about the possibility that Shauna R. would be

released from prison. C.R. began hiding under his bed so that his parents would not be able to find him. J.R. had nightmares about her mother stealing her and taking her to heaven. The children exhibited "heightened hyper-vigilance," appearing to constantly be on guard. When anxious, Ha.R. would shake uncontrollably.

Joseph was still on a waiting list for specialized therapy. Joseph had difficulties stabilizing after telephone calls and video chats with his mother. He hit, kicked, spit at, and punched Je.R. However, those behaviors had significantly diminished since his placement in the foster home. Je.R. was doing well. Their caregivers said that both boys were affectionate and loving. They were eager to adopt the boys and provide them with a loving, permanent home. Joseph was too young to understand the concept of adoption, but he said that he liked living with his caregivers and did not want to go home. He called his caregivers "Mom" and "Dad." Je.R. was too young to provide a statement about adoption, but he was clearly attached to his caregivers.

H.R. was active and feisty. Her caregivers described her as the "sweetest little girl." They were in the process of adopting her brother Cody and said that they could not imagine their lives without H.R. H.R. was attached to her caregivers and sought them out for comfort.

On April 10, 2018, the Agency described the children's negative reactions to having any contact with their parents and asked the juvenile court to suspend all contact between the children and their parents. The juvenile court issued an order temporarily suspending all contact between the children and their parents.

On April 11, the juvenile court filed an "Order for Prisoner's Appearance at Hearing Affecting Parental Rights" (Order for Appearance). The order instructed the warden to deliver prisoner Shauna R. for a hearing to terminate her parental rights on May 24, 2018, unless the prisoner waived the right to be physically present. If the prisoner waived the right to be physically present at the hearing, the order indicated that she could request to appear by videoconference or telephone. The Order for Appearance included a form that had been prepared by the Agency, "Prisoner's Statement Regarding Appearance at Hearing Affecting Parental Rights" (waiver form). The waiver form had boxes next to statements that could be checked to indicate agreement with the statement. Eight of those boxes were checked by the Agency before the form was sent to Shauna R. Those included acknowledgements that the prisoner had read and understood, or had the following explained to her: that she had a right as a prisoner to appear at a hearing to terminate parental rights; that a section 366.26 hearing was scheduled for six of her children and at that hearing the juvenile court could terminate parental rights; that she already had an attorney representing her; and that she understood that she had the right to be physically present at that hearing. Boxes next to the following three statements, among others, were not checked: "I want to be physically present at that hearing"; "I do not want to be physically present at the court and I give up that right"; and "I want to participate in the hearing by videoconference or telephone."

On April 22, Shauna R. informed the court by letter that she had recently been moved to the Central California Women's Facility in Chowchilla and was in their

receiving process, which would take from 30 to 90 days. Shauna R. wrote, "I would like to be present for trial as this is very important regarding my children!"⁴

The next day, on April 23, Shauna R. signed the waiver form and checked the box "I do not want to be physically present at the court and I give up that right." A portion of the copy of the waiver form that was filed with the court appeared to have been damaged. Several of the boxes without check marks appear wavy or hand drawn on the copy of the form in the appellate record, including those next to the statements "I want to be physically present at the hearing" and "I want to participate in the hearing by videoconference or telephone."

In a letter to the juvenile court dated April 23, Shauna R. stated: "Good morning your Honor I am writing you on behalf of my Appearance for trial for our case this is very important that I appear for trial! I am ok with my Attorney appearing for me on the other court appearances just not the trial! I just got called down to sign a paper for not appearing for those other court appearances and I also checked the box to be available by telephone or video t.v. if this will help. I am requesting for an order to be produced for Trial! . . . I tried to ask questions about this paper and Counselor Lyon would not answer any of my questions! I am not knowledgeable of this form thats why I am writing you I just don't want to be present for the pre-trial that we just come on and get extended. I

⁴ This letter appears in the record without a date stamp or any indication when it was received by the juvenile court. The chronological nature of the appellate record suggests the letter was filed after April 11, 2018, when the Order for Appearance was filed, but before a court report was filed on May 14, 2018, and before the Prisoner's Statement was filed on May 24, 2018.

hope this helps to understand my position and wanting to be present for trial! Thank you for your time in reading my letter."⁵ (Errors in original.)

Shauna R. sent another letter to the court, dated May 9, 2018, describing her activities in prison programs and stating that she had been cleared for general population. She complained about the Agency's "corrupt" and "deceitful" practices and claimed that her constitutional rights had been violated throughout her children's dependency proceedings. She did not mention the pending section 366.26 hearing in this letter.⁶

At the section 366.26 hearing on May 24, the juvenile court said that it had in the court file a waiver form in which Shauna R. had waived her appearance at the section 366.26 hearing. Shauna R.'s attorney (Counsel) asked whether Shauna R. had requested a telephone appearance. The court requested a clearer copy of the waiver form, noting that there did not appear to be a period between the statement "I do not wish to be physically present at the court and I give up that right," which was checked, and the next sentence "Request to appear by videoconference or telephone," which did not have a box next to it. The box next to a statement explicitly waiving the right to appear at the hearing by videoconference or telephone was not checked.

Counsel requested a continuance of the section 366.26 hearing in view of the ambiguity of the waiver form. The court stated that the waiver form was ambiguous only as to whether Shauna R. wanted to participate in the hearing by telephone; she clearly

⁵ See footnote 4, *ante*.

⁶ See footnote 4, *ante*.

stated that she did not want to be physically present. The Agency acknowledged that the copy of the form was distorted. Counsel said that he had expected Shauna R. to be physically present in court that day. The court recessed the hearing to attempt to contact prison officials to clarify Shauna R.'s wishes.

The juvenile court was ultimately able to reach Shauna R. by telephone. Counsel requested a five-week continuance, stating that Shauna R. wanted to be physically present in court but would lose her status in the prison processing procedure if she were to leave the prison to attend the hearing. She had one more step in her processing before she could join the regular prison population.

The juvenile court said that it had received a letter dated May 21, 2018, a copy of which had been provided to all counsel, in which Shauna R. indicated her desire to be present at the hearing.⁷ However, the court further noted that Shauna R. had signed a waiver of appearance. The court observed that the matter was set for trial that day and that Shauna R. was present on the telephone.

The Agency opposed any continuance. The children, particularly the three oldest, knew about the court proceeding that day and had been displaying significant anxiety. The Agency stated that Shauna R. had the opportunity to be present even if she had to go through prison processing again, but had waived her physical presence. The only issue was whether she wanted to be present by telephone.

⁷ There is no letter dated May 21, 2018, in the appellate record.

The juvenile court denied the motion for a continuance, over Counsel's objection. Shauna R. then asked for permission to speak. She said that she had been "called in" to fill out a form and that she had stated on the form that she wanted to be physically present at the hearing, and if she could not be physically present, then she wanted to appear by telephone.

The court stated that it was relying on the waiver form that Shauna R. had signed on April 23, 2018, in which she had waived her right to be present at the hearing. The court proceeded with the section 366.26 hearing. Without objection, the court admitted the Agency's reports in evidence. The social worker reported that the children saw each other between one and three times a month. The caregivers planned to continue sibling visitation. The social worker believed that the children would not benefit from continuing a relationship with either of their parents. The parent/child relationships were not healthy for the children and were disruptive to their stability. Adoption was in their best interests. The social worker testified that all of the children's caregivers had approved adoptive home studies and that they all remained committed to adopting the children who were in their care.

Shauna R. did not testify, present witnesses, or cross-examine the social worker.

The juvenile court reiterated that it had in its file a form indicating that Shauna R. had waived her right to be physically present in court. Shauna R. interrupted the court, stating, "I did not waive that." At this point, the court acknowledged that it had received a letter from Shauna R. in which she had asked to be present for the hearing. However, the court did not believe that it would be in the children's best interests to continue this

matter for five weeks to allow Shauna R. to be transported to court. Further, the court noted, Shauna R. was present at the hearing by telephone.

The juvenile court observed that it was unusual to see children who were so distressed by the nature of their relationships or interactions with their parents. It was clear to the court that the children did not have a parent/child bond that would override the benefits that they would gain from adoption. In addition, the children would maintain their sibling relationships if adopted. The court found that it was likely that the children would be adopted if parental rights were terminated and that adoption was in their best interests. The court terminated parental rights and designated the children's respective caregivers as their prospective adoptive parents.

DISCUSSION

I

The Juvenile Court Violated Shauna R.'s Statutory Right to be Present at the Contested Hearing to Terminate Her Parental Rights

Penal Code section 2625, subdivision (d) prohibits the court from holding a section 366.26 hearing without the physical presence of an incarcerated parent "unless the parent has knowingly waived his or her right to appear."⁸ (*In re M.M.* (2015) 236 Cal.App.4th 955, 961.) The court is required to issue an order for the temporary removal of the prisoner from the institution and for the prisoner's production in court, "[u]pon receipt by the court of a statement from the prisoner or his or her attorney indicating the prisoner's desire to be present during the court's proceedings." (Pen. Code, § 2625, subd.

⁸ Penal Code section 2625 also applies to jurisdictional and dispositional hearings.

(d.) A copy of the order must be transmitted to the person in charge of the institution at which the prisoner is incarcerated not less than 15 days before the order is to be executed. (*Id.*, subd. (e).)

Penal Code section 2625, subdivision (d) states that "[n]o proceeding" under section 366.26 may be held "without the physical presence of the prisoner or the prisoner's attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner or an affidavit signed by the warden, superintendent, or other person in charge of the institution, or his or her designated representative stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding."⁹ (*Ibid.*)

A prisoner parent who has waived his or her right to physical presence at a section 366.26 hearing may, at the court's discretion, be given the opportunity to participate in the hearing by videoconference, if that technology is available, and if that participation otherwise complies with the law. If videoconferencing technology is not available, the parent may participate through teleconferencing. (Pen. Code, § 2625, subd. (g).) The Legislature explicitly states that the provision allowing a prisoner to participate in the hearing by videoconference or teleconference "shall not be construed to limit a prisoner's right to physically attend a dependency hearing as provided in this section." (*Ibid.*) A

⁹ The California Supreme Court in *In re Jesusa V.* (2004) 32 Cal.4th 588, 622, held that the reference in Penal Code section 2625 to the "physical presence of 'the prisoner or the prisoner's attorney' " did not mean that only the presence of the attorney was required. The Court held that the word "or" in this phrase is properly given a "conjunctive meaning" in view of the strong legislative interest in facilitating the presence of a prisoner parent at a hearing affecting his or her parental rights. (*Ibid.*)

prison must maintain internal job placement opportunities and preserve earned privileges for prisoners, and prevent their removal from court-ordered courses that are affected by their participation in dependency hearings under section 366.26. (Pen. Code, § 2625, subd. (h).)

The juvenile court failed to afford Shauna R. her statutory right to be physically present at the permanency plan selection and implementation hearing when it did not continue the hearing for the time that it would take to secure her presence. In large part, the groundwork for the error was set when Shauna R.'s waiver form, which she signed on April 23, was not filed in court until the morning of May 24, the date of the section 366.26 hearing. Although Shauna R. signed a waiver of her physical presence on April 23, she sent a contemporaneous letter to the court explaining that she did not understand the form; that the prison counselor would not answer her questions about the form; that she intended to waive her presence at hearings other than the section 366.26 hearing; and that she wanted to be physically present in court for the section 366.26 hearing.

On the date of the section 366.26 hearing, Shauna R. denied that she had waived her right to be physically present at the hearing. The juvenile court acknowledged that it had received a letter from Shauna R. stating that she wanted to be physically present at the hearing. We reject the Agency's argument that the waiver form that Shauna R. signed was controlling even if defective or subsequently rescinded. We also reject the Agency's argument that Shauna R. was motivated by a desire to delay the proceedings and that her claim of mistaken waiver of physical presence was not sincere. We would be more sympathetic to the Agency's argument if Shauna R. had remained silent until the day of

the hearing and then asked to be produced, but that is not what occurred. Rather, she sent a letter to the court on the same day that she signed the waiver form, explaining her understanding of what she was signing and stating her desire to be physically present in court for the hearing.

The court erred in relying solely on the waiver form without considering the other information that it had received concerning Shauna R.'s desire to be physically present at the section 366.26 hearing. The fact that Shauna R. had apparently signed a waiver of her presence at the hearing was not binding in view of her contemporaneous explanation that she did not want to waive her presence at that hearing and that she did not understand the form that she had been asked to sign. The Agency's preprinted check marks next to the statements starting with "I have read and understand . . . " or "I understand . . . " on the form JV-451 that Shauna R. received may also have been a source of confusion. The juvenile court further erred when it concluded that Shauna R.'s presence by telephone was an appropriate justification for proceeding with the hearing without her being physically present. The Legislature specifically provides that the ability to appear by teleconferencing shall not be construed to limit the prisoner's right to be physically present at a section 366.26 hearing. (Pen. Code, § 2625, subd. (g).)

The court was apparently under the misimpression that it would have to continue the section 366.26 hearing for five weeks if it were to grant Shauna R.'s request to be physically present at the hearing. However, Shauna R. had already received proper notice of the section 366.26 hearing, which requires service of notice to be completed 45 days before the date of the hearing. (§ 294, subd. (c)(1).) Under Penal Code section

2625, subdivision (e), an order to an institution to produce a prisoner requires a minimum of 15 days. The juvenile court should have continued the hearing for the minimum time required to produce Shauna R. for the hearing.

Although the juvenile court should have granted a short continuance to secure Shauna R.'s physical presence at the section 366.26 hearing, the court did not abuse its discretion in denying Counsel's initial request for a five-week continuance to allow her to complete the process into the prison's general population. Shauna R. apparently believed that she would be somehow penalized if she were to leave the institution prior to completing that process. However, the Legislature has expressly disapproved of any adverse consequences to prisoners resulting from their participation in proceedings affecting their parental rights. (Pen. Code, § 2625, subd. (h).)¹⁰ The court did not abuse its discretion in denying the request for a continuance on that ground, particularly in view of the need to promptly resolve the children's custody status.

II

Proceeding with the Section 366.26 Hearing Without Shauna R. Being Physically Present Was Harmless Beyond a Reasonable Doubt

At the section 366.26 hearing, the primary issue is whether there is clear and convincing evidence that the child is adoptable. (*In re Josue G.* (2003) 106 Cal.App.4th 725, 733; see § 366.26, subd. (c).) If the child is adoptable, there is a strong preference for adoption over the alternative permanency plans. (*In re Collin E.* (2018) 25

¹⁰ The Judicial Council may wish to consider adding the language found in Penal Code section 2625, subdivision (h) to the JV-450 form "Order for Prisoner's Appearance at Hearing Affecting Parental Rights."

Cal.App.5th 647, 663; *In re Autumn H.* (1994) 27 Cal.App.4th 567, 573 (*Autumn H.*.) If the court determines that a child is likely to be adopted, the burden shifts to the parent to show that termination of parental rights would be detrimental to the child under one of the exceptions listed in section 366.26, subdivision (c)(1). (*In re Collin E.*, at p. 663.)

An exception to termination of parental rights applies where "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(B)(i).) The phrase "benefit from continuing the relationship" has been interpreted to mean that the parent/child relationship "promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents." (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

Shauna R. argues that the error was prejudicial. She contends that if she had been physically present in court, she would have testified about her relationships with her children and refuted the Agency's evidence concerning the children's adoptability and the termination of parental rights. Shauna R. maintains that if she had been physically present to testify, it is reasonably probable that the results of the hearing would have been more favorable to her. (*People v. Watson* (1956) 46 Cal.2d 818, 836.)

We reject Shauna R.'s argument. She was present by telephone and represented by counsel at the hearing. She had the opportunity to testify, present evidence, and cross-examine the social worker, but did not do so. Shauna R. did not make any proffer at the hearing as to what she would have testified to, or what evidence she would have presented, if she had been physically present in court, that would have refuted the

Agency's evidence or otherwise persuaded the court that the children were not adoptable or that an exception to adoption applied. On appeal, Shauna R. merely asserts that she would have disputed the Agency's evidence that the children were adoptable and that terminating the parent/child bond would not be detrimental to the children because Shauna R. had loving relationships with the children and tried to engage them in conversation.

Moreover, even if Shauna R. had been physically present to testify, it is not reasonably probable that the results of the hearing would have been more favorable to her. Shauna R. pled guilty to felony child abuse in 2013 and again in 2017. She intentionally starved one of her children and forced his older siblings to participate in abusing him. (*In re Cody R.*, *supra*, 30 Cal.App.5th at pp. 384-385.) All of the children showed signs of neglect. With the exception of the two youngest children, the children were abused and traumatized in Shauna R.'s care. They were hit with belts and objects and were intimidated by Shauna R.'s mistreatment of Cody. They were afraid of her. After the children were removed, any contact with Shauna R. resulted in the children exhibiting anxiety, fear, dysregulation of emotions, physical and verbal aggression, and vomiting. When they overheard a conversation about the possibility that Shauna R. would be released from prison, the three oldest children started hiding and sleeping under their beds, and having frequent nightmares about being kidnapped, abused, and killed by their parents. The social worker reported that contacts with both parents disrupted the children's stability and their physical and emotional well-being.

The record leaves no doubt that the children are adoptable and that their respective caregivers want to adopt them. All of the children, by their words or by the nature of their relationships with their caregivers, or both, expressed a desire to be adopted by their caregivers. There was overwhelming evidence showing that each child needed a stable, loving, permanent home with committed, capable caregivers. Shauna R. claims that she would have refuted this evidence if she had been physically present in court and allowed to testify, but proffers no evidence with respect to the children's adoptability or any evidence that would outweigh the benefit that the children would gain in a safe and secure permanent home. (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) In view of the evidence presented at the section 366.26 hearing, it is not reasonably probable that the court would have determined that the children were not adoptable or that they had a beneficial relationship with Shauna R., and would have selected a permanency plan other than adoption if Shauna R. had been physically present at the hearing.

DISPOSITION

The findings and orders are affirmed.

HUFFMAN, J.

WE CONCUR:

McCONNELL, P. J.

HALLER, J.